



## Bank Interest in Islamic Law

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<b>ABSTRACT</b> This journal aims to examine the concept of bank interest (riba) within the framework of Islamic law (Sharia). The practice of charging and receiving interest has been a topic of significant debate and controversy among Islamic scholars and jurists. This paper provides an in-depth analysis of the philosophical underpinnings of bank interest in Islamic law, taking into account various perspectives and interpretations within the Islamic legal tradition. The journal begins by exploring the foundational principles of Islamic law and its ethical framework, highlighting the prohibition of riba as outlined in the Quran and the Hadith. It discusses the historical context and evolution of Islamic banking and finance, emphasizing the need for alternative financial mechanisms that comply with Islamic principles. The study then delves into the philosophical considerations surrounding bank interest from an Islamic legal perspective. It examines different schools of thought and the rationale behind their positions, including the arguments for and against the permissibility of bank interest. The utilitarian perspective evaluates the societal consequences of interest-based transactions, while the deontological approach emphasizes the adherence to moral principles. The contractualist viewpoint focuses on the voluntary agreements between parties, and the concept of justice and equality is examined in relation to interest-based transactions. Furthermore, the journal analyzes contemporary practices in Islamic banking and finance, including the development of Islamic financial instruments that adhere to Sharia principles. It explores the role of regulatory bodies in overseeing and ensuring compliance with Islamic law in the financial industry. The research concludes by synthesizing the diverse perspectives and providing a comprehensive understanding of the philosophical considerations surrounding bank interest in Islamic law. It emphasizes the importance of contextual interpretation and critical analysis within the Islamic legal tradition to address the challenges and complexities posed by modern financial systems.  <b>Keywords:</b> <i>Bank Interest, Islamic Law, Philosophy.</i>			

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## INTRODUCTION

The modern financial system has experienced rapid development in various countries, including in the Muslim world. One of the main aspects of the financial system is the practice of giving and taking interest by banking (Abasimel, 2022). However, amidst the strong religious views and sharia principles that govern Muslim life, questions arise about the legitimacy of bank interest in Islam.

Bank interest, or what is better known as usury, has become a very controversial topic among Muslim scholars and scholars. Bank interest is considered to violate the principles of justice and economic sustainability which are maintained in Islamic law (Ahroum dkk., 2020). Therefore, it is important for the Muslim community to understand bank interest law from an Islamic legal perspective and its consequences in their financial practices.

In this journal, an in-depth analysis of bank interest in Islamic law will be carried out. This journal aims to explore the different views of Muslim scholars and scholars regarding this issue (Alkhan, 2020), as well as identify the arguments and legal basis used in support or against the existence of bank interest.

First, this journal will introduce the concept of usury and provide an explanation of the prohibition of usury in the Al-Quran and Hadith. It is important to understand the legal basis which is the main basis for assessing bank interest law in Islam (Amado-Alonso dkk., 2019). Furthermore, this journal will present the opinions of scholars who prohibit bank interest and the arguments they use to support the prohibition.

However, this journal will also provide space for opinions that allow bank interest in certain contexts. Arguments from scholars who view bank interest as a fair reward for the risk and time involved in lending will be discussed (Anoum dkk., 2022). In this section, the journal will explain the principles used by those who allow bank interest, as well as the reasons they put forward.

Apart from that (Arslan, 2021), this journal will also look at the practical implementation of sharia principles in Islamic financial institutions (Awwad dkk., 2023). It will be explained how these institutions provide alternatives that are in accordance with Islamic law (Azizah, 2023), through financial products such as mudharabah, murabahah, musharakah financing contracts, and others.

The main objective of this journal is to provide a deeper understanding of this complex issue and encourage dialogue and further reflection on the role of bank interest in Muslim economic life (Bekkin, 2020). By examining different perspectives, it is expected to achieve a better understanding of the law of bank interest in Islam, and its implications

In Islamic law, there are differences of opinion among scholars regarding the law of bank interest (Soldatic & St Guillaume, 2022). This opinion relates to the interpretation of sharia principles governing financial activities.

Some scholars state that usury (interest) is forbidden in Islam based on the prohibitions contained in the Al-Quran and Hadith (Burhanudin, 2022). They argue that usury is an exploitation and unfair because they benefit from returns that are more than the amount of the loan given.

Meanwhile, there are also scholars who allow bank interest in certain contexts. They argue that bank interest can be considered a reasonable reward for the risk and time associated with a loan (Bustamin dkk., 2022). This opinion is often based on the principles of equity and the economic benefits that can be derived from a well-functioning financial system.

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In many countries with a majority Muslim population (Demina dkk., 2022), Islamic financial institutions have been developed to provide an alternative that complies with sharia principles (Dewi S dkk., 2022). These institutions provide a variety of financial products that avoid conventional bank interest, such as mudharabah, murabahah, musharakah financing contracts, and others.

It is important to note that the legal provisions of bank interest may vary among Muslim countries and individual interpretations (Boelig dkk., 2020). Therefore, if you want to know the law on bank interest in a particular context (Firman dkk., 2022), it is advisable to consult a competent religious scholar or authority in the area concerned.

Bank interest in legal philosophy involves an analysis and understanding of the philosophical concepts that underlie views about the legitimacy and implications of interest in the financial system. Several schools of legal philosophy provide different perspectives related to bank interest and its implications (Bamfo & Kraa, 2019). The following are several legal philosophy approaches that can be used to analyze bank interest.

**Utilitarianism:** The utilitarianism approach involves evaluating bank interest based on its positive and negative impacts on society as a whole (Hartini dkk., 2022). Adherents of utilitarianism will assess bank interest based on its contribution to economic and social welfare (Gollakota dkk., 2019). If bank interest is considered to provide greater benefits to society, then this practice is philosophically acceptable.

**Deontological Ethics:** The perspective of deontological ethics will emphasize moral rules or principles that are absolute and cannot be violated. In the context of bank interest, this approach will evaluate the legitimacy of interest based on moral or ethical principles that are upheld by a particular society or religion (Ilham dkk., 2022). If bank interest violates ethical principles that are considered absolute, then this practice will be considered unethical.

**Contractualism:** Contractualism focuses on understanding contractual relationships and agreements between the parties involved. In the context of bank interest, this approach will assess the legitimacy of interest based on a contractual agreement between the lender and the borrower (Karim dkk., 2022). If bank interest is considered a legal part of the contractual agreement, then this practice can be justified philosophically.

**Fairness and Equality:** This approach emphasizes aspects of fairness and equity in the context of bank interest (Chenu dkk., 2019). Legal philosophers will question whether bank interest practices ensure fairness and equality for all parties involved (Kartel dkk., 2022). If bank interest is deemed to be detrimental to one party or to create significant inequalities, then this practice may be questioned from the point of view of legal philosophy.

## **RESEARCH METHODOLOGY**

The research method in this study uses the normative juridical research method. The normative juridical research method is the approach used in legal research to analyze legal regulations and other legal documents (Keshav dkk., 2022). This method focuses on

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analyzing existing legal norms and using legal arguments to understand and explain the legal issues being researched.

In normative juridical research, researchers collect data from relevant legal sources, such as laws, regulations, court decisions (Najeed dkk., 2022), constitutional documents, and legal literature (Nopiana dkk., 2022). Then, the data is critically analyzed using theoretical approaches and legal arguments to explore the meaning, purpose and impact of existing legal regulations.

The normative juridical research method involves the following steps: Legal data collection: Researchers collect data from a variety of relevant legal sources, such as laws, regulations, and court rulings. These sources provide the legal basis on which the research focuses. Legal analysis: The collected legal data is then analyzed using appropriate legal arguments and theoretical approaches. Researchers identify relevant legal norms, interpret the meaning and purpose of legal regulations, and analyze the relationship between different legal regulations. Drawing conclusions: Based on the legal analysis conducted, researchers draw conclusions regarding the legal issues studied. This conclusion is based on legal reasoning and deep understanding of existing legal regulations.

The normative juridical research method has several advantages. First, this method allows researchers to understand and explain the existing legal framework and provides an in-depth understanding of applicable legal norms. Second, this method allows researchers to provide recommendations or legal advice based on a consistent and tested analysis of legal arguments.

## **RESULT AND DISCUSSION**

In the context of Islamic Economics, eating usury is one of the great sins. However, in practice there are still many people who are confused by the practice of usury in everyday life, especially those related to banking transactions (Smaranda & Jacob, 2022). Thus, conventional banks are still the choice of Muslim customers, including for borrowing funds (Qureshi dkk., 2022). Of course, conventional banking applies interest, both loan interest and deposit interest. Riba in Arabic is *az-ziyadah*, which means addition or excess. If in a general context (Rahmah dkk., 2022), the excess referred to is an addition to the main assets or principal. Quoting MUI Fatwa Number 1 of 2004, usury is an additional (*ziyadah*) without compensation (if *'iwadh*) that occurs due to a delay in payment (*ziyadah al-ajal*) previously agreed upon (this is what is called usury *nasi'ah*) (Rohmalimna dkk., 2022). In the Qur'an, usury is explained in QS. Ali Imran verse 130 concerning the prohibition of eating usury, which is interpreted as follows: 'O you who believe, do not eat usury multiplied and fear Allah so that you will get good luck.'

According to UII Islamic Economics Study Program (PSEI) lecturer Mr. Adi Wicaksono, SE., MEI, 'Riba in conventional banking, in the form of interest, probably all Ekis friends already understand (Safitri dkk., 2022). However, there is also usury that is commonly found in the neighborhood around households, namely loan interest on RT RW cash. Usually village women or similar, have idle cash (Santoso dkk., 2023). So, the funds were lent to Dasawisma members using an interest system. 'In addition, there is also

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interest in the conventional capital market, which is what occurs in margin trading transactions. Investors are borrowed funds from securities for transactions, and on these loan funds investors are charged interest, 'added Mr. Adi. Member of the MUI National Sharia Council, Hidayatulloh SHI MH, in a conversation with mui.or.id said that according to the scholars, there are several types of usury. According to Hanafi, Maliki, and Hanbali, riba is divided into riba fadhl and nasi'ah. Syafi'iyah divides usury into fadhl, nasi'ah, yad, and qardh (Smaranda & Jacob, 2022). Whereas Ibn Ruysd divides it into usury buying and selling (bai') and usury due to debt. As mentioned above, usury is not only in the form of bank interest (Watkins, 2020). So, let's get to know the types of usury that are forbidden in the Qur'an and hadith below: **Riba Jahiliah** is a type of usury in the form of repayment of debt in a larger amount than the principal loan. Generally, this kind of usury is imposed when the borrower is unable to repay the debt according to the promised time. **Riba Qardh** is the most common type of riba when someone borrows money with a certain tenor and interest. For example, borrowing IDR 60 million with an interest of 15% and a repayment period of 6 months. The amount of interest is usually a requirement given by the lender. **Riba Fadl** is the addition of value from the activity of exchanging goods or buying and selling transactions. For example, when exchanging Rp. 100,000 notes for Rp. 2,000 notes, you only get 48 notes instead of 50 so that the total is no longer the same as the initial value, which was only Rp. 96,000. **Riba nasiah** is an advantage that is obtained through buying and selling transactions at a certain time. The goods used in the transaction are of the same type, it's just that there is a delay in payment. **Riba yad** occurs in transactions (both buying and selling and exchanging goods) that initially occur without any excess. However, due to a delay in payment as a result of one of the parties leaving the contract before handing over the goods, the value increases.

From a religious point of view, it is actually not only Islam that condemns the practice of usury. All religions have condemned usury, even the Jews forbid it between them even though they allow it in their business relations with nations other than Jews (Widyastuti dkk., 2020), as recorded in their statement, that 'no there is a sin for us against the Ummi (Arabs)' as expressed in QS Ali Imran (3): 75

وَمِنَ أَهْلِ الْكِتَابِ مَنْ إِنْ تَأْمَنَهُ بِقِنطَارٍ يُؤَدِّهِ إِلَيْكَ وَمِنْهُمْ مَنْ إِنْ تَأْمَنَهُ بدينارٍ لَا يُؤَدِّهِ إِلَيْكَ إِلَّا مَا دُمْتَ عَلَيْهِ قائماً  
ذَلِكَ بِأَنَّهُمْ قَالُوا لَيْسَ عَلَيْنَا فِي الْأُمِّيِّينَ سَبِيلٌ وَيَقُولُونَ عَلَى اللَّهِ الْكُذِبَ وَهُمْ يَعْلَمُونَ

There is no sin for us against the Ummi. They tell lies against Allah, even though they know.'

In the Qur'an the word usury is found eight times repeated, found in four letters, namely QS al-Baqarah, QS Ali Imran, QS al-Nisa, and QS al-Rum. The first three letters are 'Madaniyyah' (descended after the Prophet migrated to Medina), while al-Rum's letter is 'Makiyyah' (descended before he migrated). This means, the first verse that came down about usury is the one listed in surah al-Rum (30): 39. This verse gives a definition of forbidden usury:

وَمَا آتَيْتُم مِّن رَّبِّا لَّيْرَبُوا فِي أَمْوَالِ النَّاسِ فَلَا يَرْبُوا عِنْدَ اللَّهِ وَمَا آتَيْتُم مِّن زَكَاةٍ تُرِيدُونَ وَجْهَ اللَّهِ فَأُولَئِكَ هُم  
الْمُضْعِفُونَ



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'And something usury (ie additional) that you use to add to human wealth, then usury does not add to God's side. And what you give in the form of zakat, which you mean to achieve the pleasure of Allah, then those who do so are the ones who multiply (their rewards).'

In this verse, what is meant by usury is the value or price added to assets or money lent to other people. In the verse above, there is no legal provision regarding the prohibition of usury. Presumably this is a square off against the prohibition of usury in the verses that will be revealed later. According to al-Maraghi and al-Shabuni, that the stages of discussion in the Qur'an about usury are the same as the stages of discussion about khamr (drinks). harsh), which in the first stage simply describes the existence of a negative element in it (QS al-Rum/30: 39), then followed by a hint of the prohibition of eating usury, is something that is very inhumane (QS al-Nisa'/4: 161) . Furthermore, in the third stage, it is explicitly stated that one of its forms is forbidden (QS Ali Imran / 3: 130), and in the last stage, riba is totally forbidden in its various forms (QS al-Baqarah / 2: 275, 280).

According to terminology, usury means taking additional assets or capital in vanity. A similar understanding was conveyed by a large number of scholars from various schools of fiqh, including: What is prohibited in the Qur'an and Sunnah is the addition of Imam an-Nawawi from the Shafi'i school of thought: 'One form of usury on basic assets is due to the element of time. In the banking world, this is known as credit interest according to the length of time the loan is (An-Nawawi. Badruddin al-Ayni, the author of Umdatul Qâri 'Sharah Shahih al-Bukhari, gives the following definition of usury: "The main principle in usury is addition. According to sharia, usury means the addition of principal assets without any real business transactions". Imam Sarakhsi from the Hanafi school: 'Riba is an addition required in business transactions without any iwad} (or equivalent) that is justified by sharia for this addition. Imam Ahmad ibn Hanbal, founder of the Hanabilah school of thought: 'Imam Ahmad ibn Hanbal when asked about usury he replied: Indeed, riba is someone who has a debt, so he is told whether to pay it off or pay more. If he is unable to pay off, he must add funds (in the form of loan interest) for the additional time given".

There are several opinions explaining usury, but in general there is a common thread that emphasizes that usury is additional taking, both in buying and selling transactions and lending and borrowing in vain or contrary to the principles of muamalat in Islam. Regarding this, Allah SWT reminds us in his words: 'O you who believe, do not eat each other's wealth in a vanity way, except by way of trade that applies with mutual consent between you. and do not kill yourselves; Truly Allah is Most Merciful to you.'" (QS. An-Nisâ': 29) Regarding the meaning of vanity in the verse above, Ibn al-Arabi al-Maliki, in his book Ahkam al-Qur'an, explains that the meaning of usury in language is additional (ziyadah), but the meaning of usury in the verses of the Qur'an is any addition taken without a substitution or balancing transaction that is justified by sharia." (Anoum et al., 2022; Demina et al., 2022) What is meant by a replacement or balancing transaction is a

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business or commercial transaction that legitimizes this addition in a fair manner. Such as buying and selling transactions, mortgages, leases, and so forth.

Definition of Debt in the Islamic Perspective Sukarno (2010) Debt in a general sense means receiving a loan from another party which must be returned in accordance with the agreement made after the transaction (P. Sukarno's Commercial Law course). It was also conveyed that in the rule of Fiqh that debt should not bring profit to the lender 'that any debt that brings profit is usury' (Firman et al., 2022; Ilham et al., 2022). Debt and credit in Islam should be based on religious orders and suggestions so that in this life we always help each other and help each other in virtue. This is strengthened in:

**Al Qur'an Surah Al Ma'idah verse 2**

'Assist in goodness and in carrying out piety, and do not help you in sin and enmity. Fear Allah. Allah is very severe in punishment.'

Thus giving debt or receiving debt must be based on sincere intentions as an effort to help each other in goodness. This verse means that giving a debt or loan to someone must be based on taking advantage of work recommended by religion or if there is no prohibition in doing so. Because giving debt to others is a benevolent act, someone who gives a loan is not allowed to take advantage. Even so, the lender should also not be harmed?

**Al-Qur'an Surah Al-Baqarah verse 282**

“O you who believe, if you transact on the basis of debt within the allotted time, write it down. Let a writer among you write correctly, and let him not be reluctant to write it as Allah has taught him.'

In debt and credit transactions, Allah has given signs so that they are in accordance with sharia principles: namely avoiding fraud and actions that are prohibited by Allah, giving guarantees of certainty of debts and receivables in writing, of course, in accordance with applicable laws and positive habits (for example, being disabled at a notary). .

**Al-Qur'an Surah Al-Hadid verse 11 gives guarantees to lenders**

'Whoever lends Allah a good loan, Allah will multiply it for him and with Him the reward is abundant and more noble'

This guarantee is extraordinary, especially for believing and pious Muslims, because this guarantee requires good intentions, faith and sincerity.

**CONCLUSION**

The conclusion of the text is that in Islamic economics, consuming usury is a major sin. Even so, many Muslim people are still confused by the practice of usury in everyday life, especially those related to banking transactions, so that conventional banks are still the choice of Muslim customers to borrow funds. In the Qur'an, usury is described in QS. Ali Imran verse 130 concerning the prohibition of eating usury. In addition, there are various types of usury that are forbidden in the Qur'an and hadith, such as usury ignorance, usury qardh, usury fadhl, usury nasi'ah, and usury yad. Even though usury is not just bank interest, bank interest is one example of usury that is common in society.

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